

# YOUTH OFFENDER CHARACTERISTICS

An overview of youth offender  
characteristics for consideration  
during suitability hearings for Youth  
Offenders under Penal Code  
section 3051

# **THIS TRAINING WILL PROVIDE:**

- **Review of the Cases that led to SB 260**
- **Discussion of SB 260 and the Youth Offender Characteristics**
- **Review of Case law to Guide Discussions about the Youth Offender Characteristics**
- **Resources available to the Panel in assessing the Youth Offender Characteristics**

# CASE LAW INFLUENCING SB 260

- **Graham v. Florida (USSC)**
- **Miller v. Alabama (USSC)**
- **People v. Caballero (Cal. Supreme Court)**
- **Moore v. Biter (9<sup>th</sup> Circuit Court)**

# Graham v. Florida (USSC)

- ① 16-year-old Graham sentenced to life plus 15 years for a home invasion burglary and an attempted robbery. Because Florida had abolished its parole system, a life sentence meant no possibility of release unless granted executive clemency.
- ① USSC reversed sentence, finding that “[t]he Constitution prohibits the imposition of a life without parole sentence on a juvenile offender who did not commit homicide . . . .”
- ① “State **need not guarantee the offender eventual release**, but if it imposes a sentence of life it must provide him or her with **some realistic opportunity to obtain release before the end of that term.**”

# Miller v. Alabama (USSC)

- Two 14 year olds from different cases sentenced to mandatory LWOP sentences for being involved with murders (one as primary murderer, one as accomplice).
- USSC reversed both sentences, finding that the State cannot impose a mandatory LWOP sentence on a juvenile for any crime. Rather “a judge or jury must have the opportunity to consider mitigating circumstances.”
- Of particular relevance: USSC stated “**none of what [Graham] said about children—about their distinctive (and transitory) mental traits and environmental vulnerabilities—is crime-specific.**”

# People v. Caballero (Cal. Sup. Ct.)

- 16-year-old Caballero fired a gun at three individuals for gang purposes, striking but not killing one, and missing the others. Caballero was sentenced to 110 years to life for three counts attempted murder.
- Cal. Supreme Court reversed holding that, based on *Graham & Miller*, “sentencing a juvenile offender for a nonhomicide offense to a term of years with a parole eligibility date that falls outside the juvenile offender’s natural life expectancy constitutes cruel and unusual punishment in violation of the Eighth Amendment.”

# Moore v. Biter (9<sup>th</sup> Circuit)

- 16-year-old Moore received a term-of-years sentence of 254 years and four months for numerous counts of forcible rape and other nonhomicide crimes.
- 9<sup>th</sup> Circuit reversed holding that, even though the sentence was a determinate term of years, “Moore's sentence guarantees that he will die in prison . . . . [and] is irreconcilable with *Graham's* mandate that a juvenile nonhomicide offender must be provided ‘some meaningful opportunity’ to reenter society.”

# SENATE BILL 260

- Senate Bill 260 (2013)
- Penal Code 4801(c) and the Youth Offender Characteristics



# Senate Bill 260 (2013)

- ◎ **PURPOSE:** “[E]stablish a parole eligibility mechanism that provides a person serving a sentence for crimes that he or she committed as a juvenile the opportunity to obtain release when he or she has shown that he or she has been rehabilitated and gained maturity.”
- ◎ **INTENT:** “[C]reate a process by which growth and maturity of youthful offenders can be assessed and a meaningful opportunity for release established.”

# Senate Bill 260 (2013)

- Set maximum eligibility timeframes on suitability hearings for qualified youth offenders
- Established specific characteristics unique to the youth offender population for consideration at two key points in the hearing:
  - > In determining the youth offender's **suitability for parole** (PC 3051(d))
  - > In setting **denial length** in accordance with Marsy's Law (PC 3051(g))

# Youth Offender Characteristics

During these suitability and denial length determinations for qualified youth offenders, newly added Penal Code 4801(c) now requires the Board to give “great weight” to:

- ◉ **diminished culpability of juveniles as compared to adults**
- ◉ **the “hallmark features” of youth**
- ◉ **any subsequent growth and increased maturity of the prisoner in accordance with relevant case law**

**WHAT DO  
THESE MEAN?**

# Six Areas of Court Focus on Diminished Culpability of Juveniles as Compared with Adults

- Developments in Psychology and Brain Science
- Transient Characteristics
- Vulnerability of Youth
- Limited Control over Own Environment
- Less Susceptible to Deterrence
- Disadvantages in Criminal Proceedings

# Developments in Psychology and Brain Science

- ◎ **GRAHAM at 2026-27:** “[P]arts of the brain involved in behavior control continue to mature through late adolescence.”
- ◎ **MILLER at FN 5:** “It is increasingly clear that adolescent brains are not yet fully mature in regions and systems related to higher-order executive functions such as impulse control, planning ahead, and risk avoidance.”

# Transient Characteristics

- **GRAHAM at 2026-27:** “Juveniles are more capable of change than are adults, and their actions are less likely to be evidence of ‘irretrievably depraved character’ than are the actions of adults.”
- **MILLER at 2464-65:** “[F]undamental differences between juvenile and adult minds’—for example, in ‘parts of the brain involved in behavior control’ . . . enhanced the prospect that, as the years go by and neurological development occurs, his ‘deficiencies will be reformed.’”
- **MILLER at 2464-65:** “‘Only a relatively small proportion of adolescents’ who engage in illegal activity ‘develop entrenched patterns of problem behavior.’”

# Vulnerability of Youth

- ◉ **GRAHAM at 2026:** Juveniles are “‘more vulnerable or susceptible to negative influences and outside pressures, including peer pressure’.”
- ◉ **MILLER at FN 5:** “Numerous studies post-*Graham* indicate that exposure to deviant peers leads to increased deviant behavior and is a consistent predictor of adolescent delinquency.”
- ◉ **MILLER at 2467:** calling youth a “condition of life when a person may be most susceptible to influence and to psychological damage.”
- ◉ **MILLER at 2468:** must consider “circumstances of the . . . offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected him.”



# Limited Control over Own Environment

- **MILLER at 2464:** “[C]hildren have . . . limited ‘contro[l] over their own environment’ and lack the ability to extricate themselves from horrific, crime-producing settings.”
- **MILLER at 2467:** Identifying as a mitigating factor in assessing his culpability: “the background and mental and emotional development of a youthful defendant.”
- **MILLER at 2468:** requirement to consider “the family and home environment that surrounds [a youth offender]—and from which he cannot usually extricate himself—no matter how brutal or dysfunctional.”

# Limited Control over Own Environment - EXAMPLES

- **MILLER at 2467 (in discussing invalidation of death sentence in prior youth case):** “[T]he judge did not consider evidence of his neglectful and violent family background (including his mother's drug abuse and his father's physical abuse) and his emotional disturbance. We found that evidence ‘particularly relevant’—more so than it would have been in the case of an adult offender.”
- **MILLER at 2469 (in discussing Miller case):** “No one can doubt that he and Smith committed a vicious murder. But they did it when high on drugs and alcohol consumed with the adult victim. And if ever a pathological background might have contributed to a 14-year-old's commission of a crime, it is here. Miller's stepfather physically abused him; his alcoholic and drug-addicted mother neglected him; he had been in and out of foster care as a result; and he had tried to kill himself four times.”

# Less Susceptible to Deterrence

- ◎ **GRAHAM at 2028-29:** “[T]he same characteristics that render juveniles less culpable than adults suggest ... that juveniles will be less susceptible to deterrence.’ . . . Because juveniles’ ‘lack of maturity and underdeveloped sense of responsibility . . . often result[s] in impetuous and ill-considered actions and decisions,’ [citation omitted], they are less likely to take a possible punishment into consideration when making decisions.”

# Disadvantages in Criminal Proceedings

- ◎ **GRAHAM at 2032:** “[T]he features that distinguish juveniles from adults also put them at a significant disadvantage in criminal proceedings.”
  - > Due to mistrust of adults and limited understanding of criminal justice system, juveniles are less likely than adults to work effectively with their lawyers to aid in their defense.
  - > Difficulty in weighing long-term consequences, impulsiveness, and reluctance to trust defense counsel all can lead to poor decisions by youths charged with a juvenile offense.
- ◎ “These factors are likely to impair the quality of a juvenile defendant's representation.”

# Disadvantages in Criminal Proceedings

- **MILLER at 2468**: must consider that a youth “might have been charged and convicted of a lesser offense if not for incompetencies associated with youth—for example, his inability to deal with police officers or prosecutors (including on a plea agreement) or his incapacity to assist his own attorneys.”

# Court Discussions on “Hallmarks of Youth”

- What do courts mean when they mention the “hallmark features of youth?”

# The “Hallmarks of Youth”

- ◉ **MILLER at 2464**: As compared to adults, “children have a ‘lack of maturity and an underdeveloped sense of responsibility,’ leading to recklessness, impulsivity, and heedless risk-taking.”
- ◉ **MILLER at 2464-65**: notes as findings about youth: “transient rashness, proclivity for risk, and inability to assess consequences.”
- ◉ **CABALLERO at FN 4**: listing as “hallmark features”: “immaturity, impetuosity, and failure to appreciate risks and consequences.”

# Court Discussions on “Growth and Maturity”

- What do courts mean when they talk about demonstrating “growth and maturity?”



# Growth and Maturity

- ◉ **GRAHAM at 2032:** “The juvenile should not be deprived of the opportunity to achieve maturity of judgment and self-recognition of human worth and potential.”
- ◉ **GRAHAM at 2032:** “Maturity can lead to that considered reflection which is the foundation for remorse, renewal, and rehabilitation.”
- ◉ **MOORE at 1193:** Youth must have the ability to demonstrate “remorse, reflection, or growth.”

**HOW DOES THE  
PANEL ASSESS  
YOUTH OFFENDER  
CHARACTERISTICS?**

# Resources available to the Panel

- **FAD Risk Assessments**
- **Input from Family, Friends, and Community**

# FAD Risk Assessments

- ◎ **Newly enacted Penal Code 3051(f)(1):**
  - > “In assessing growth and maturity, psychological evaluations and risk assessment instruments, if used by the board, shall be administered by licensed psychologists employed by the board and **shall take into consideration the diminished culpability of juveniles as compared to that of adults, the hallmark features of youth, and any subsequent growth and increased maturity of the individual.**”

# Input from Family, Friends, and Community

- ◎ **Newly enacted Penal Code 3051(f)(2):**
  - > “Family members, friends, school personnel, faith leaders, and representatives from community-based organizations with **knowledge about the individual before the crime** or his or her **growth and maturity since the time of the crime** may submit statements for review by the board.”

**ANY QUESTIONS?**